

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MICHAEL AARON KAMBERGER,
Petitioner,
v.
SCOTT FRAKES,
Respondent.

Case No. C11-5465BHS

ORDER ADOPTING REPORT AND RECOMMENDATION

This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable Karen L. Strombom, United States Magistrate Judge (Dkt. 23) and Petitioner Michael Aaron Kamberger’s (“Kamberger”) objections to the R&R (Dkt. 25).

On July 6, 2011, Kamberger filed a petition for writ of habeas corpus based upon an alleged violation of RCW 9.98.010. Dkt. 8. On November 30, 2011, Judge Strombom issued the R&R recommending that the Court deny the petition on the merits because there is no federal habeas relief for errors of state law. Dkt. 23. On December 21, 2011, Kamberger filed objections. Dkt. 25.

First, the Court agrees with and adopts the R&R. The issue presented to the Washington Court of Appeals was purely an issue of state law, and this Court may not provide relief for any error of state law. *Estelle v. McGuire*, 502 U.S. 62, 67 (1991) (“We have stated many times that ‘federal habeas corpus relief does not lie for errors of state law.’”) (quoting *Lewis v. Jeffers*, 497 U.S. 764, 780 (1990)). Any objection requesting the Court to consider the alleged error of state law is without merit.

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1 Second, Kamberger objects to dismissal of his petition by arguing that he should be
2 allowed to amend the petition to add additional grounds for relief such as denial of speedy
3 trial and ineffective assistance of counsel. Dkt. 25 at 3-5. Kamberger, however, has failed
4 to show that these claims were fully presented to the state court. *Lambrix v. Singletary*, 520
5 U.S. 518, 523-24 (1997) (petitioner bears the burden to prove that a claim is properly
6 exhausted.). Therefore, leave to amend is denied because any amendment would be futile.

7 The Court having considered the R&R, Kamberger's objections, and the remaining
8 record, does hereby find and order as follows:

9 (1) The R&R is **ADOPTED**;

10 (2) A Certificate of Appealability is **DENIED**;

11 (3) The petition for writ of habeas corpus is **DENIED**; and

12 (4) This action is **DISMISSED**.

13 DATED this 24th day of January, 2012.

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17 BENJAMIN H. SETTLE
18 United States District Judge